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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/039,948	11/08/2001	John Patrick Wong	NC25921	8448
7590 09/15/2004				
DOCKET CLERK PO BOX 802432 DALLAS, TX 75380			EXAMINER CHIANG, JACK	
			ART UNIT 2642	PAPER NUMBER

DATE MAILED: 09/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/039,948	Applicant(s) WONG ET AL.	
	Examiner Jack Chiang	Art Unit 2642	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 13, 14 and 16-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 13, 14 and 16-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

CLAIMS

Art Rejection

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-2, 5, 6 and 13 are rejected under 35 U.S.C. 102(e) as being anticipated by Collin (US 6148080).

Regarding claim 1, Collin shows a hands-free speakerphone (col. 1, lines 8-17)

comprising:

A speaker element (3);

A housing (19 in fig. 7) having an outer surface (surface of 19) and forming at least one speaker port (see 16);

Wherein the housing (19) forms an elongated recess (26 in fig. 7) on the outer surface, the recess (26) being in communication with the at least one speaker port (see 16) for reducing the risk of a seal forming between the housing (19) and a user's ear.

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Regarding claim 13, Hawker shows a hands-free speakerphone (col. 1, lines 8-17) comprising:

A housing (19 in figs. 7, 1) having a first face (key side) and a back face (opposite the key) each having a perimeter, and a curved side face (location of 26) extending between the front and back faces along at least a portion of their respective perimeters, the housing (19) forming a plurality of speaker ports (26) formed in a spaced apart relationship along the curved side face,

Wherein the curved side face (location of 26) of the housing (19) possesses curvature (see fig. 7) to avoid a seal being formed between the speakerphone and the ear of a user placing at least one of the speaker ports (26) proximate to the user's ear.

Regarding claims 2, 5, 6, Collin shows:

The outer surface (i.e. location of 26) possesses curvature to reduce the risk of sealing being formed between the speakerphone and the ear of a user;
Speaker ports in spaced relationship (26).

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3-4, 7-8, 14, 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Andersen (US 6658110).

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Regarding claims 3-4, 7-8, 14, 16-18, Collin shows the speaker ports which are on the side walls (col. 2, lines 55-65), and the front and back portions.

Collin differs from the claimed invention in that it does not explicitly show a parting line between the front and back portions, including the mating surfaces having a raised portion and an elongated recess.

However, it is notorious well known that the front and back portions of the phone usually are detachable, and the parting line is the line formed between the front and back portions. This is shown by Andersen, such as the parting line having a raised portion and an elongated recess (see location of 43).

Therefore, if it is found that Collin has no parting line, then it would have been obvious for one skilled in the art to apply Collin's phone design in the phones shown by Andersen, because conventional phones usually have detachable front and back portions which forms the parting line. And according to the positions of Collin's speaker ports (24, 26), these speaker ports are located proximate to the parting line or formed on an inner surface of the parting line, such as the ports shown by Andersen (see 43, L3, R3).

ARGUMENT

5. In response to the remarks, applicant mainly argues about an elongated recess and a parting line. These issues have been addressed in the rejection above, see comments above.

Applicant further argues that Collins' openings 24 are flat, not curved. The examiner agrees. But, what about Collins' openings 26?

6. Applicant's arguments with respect to claims 1-8, 13-14, 16-18 have been considered but are moot in view of the new ground(s) of rejection.
7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

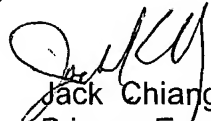
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jack Chiang whose telephone number is 703-305-4728. The examiner can normally be reached on Mon.-Fri. from 8:00 to 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad Matar, can be reached on 703-305-4731. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jack Chiang
Primary Examiner
Art Unit 2642